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List of issues in relation to the second periodic report of Cambodia

Addendum

Replies of Cambodia to the list of issues*

[Date received: 25 February 2015]

1. The Kingdom of Cambodia recognizes and respects the provisions of the International Covenant on Civil and Political Rights as stipulated in article 31 of the Cambodian Constitution. In practice, Cambodia fully relies on the actual situation from all corners of Cambodia to an extent that the entire Covenant, in which penalty is not available, applies in the Cambodian courts. In this regard, Cambodia relies on the basic principles provided in the Covenant and has incorporated them into the national laws to ensure that they apply to those circumstances. Furthermore, in its decision No. 09/003/2007, dated 10 July 2007, the Constitutional Council ruled that judges, in principle, shall conduct trials with reference to the laws. The term "law" here meant the national laws, including the constitution, which is the highest law, and any other applicable laws as well as the international laws acknowledged by the Kingdom of Cambodia.

2. With regard to the establishment of a national human rights institution, the Royal Government of Cambodia issued a subdecree forming an ad hoc committee in 1997 tasked with drafting a law on the establishment of the national human rights institution. However, this committee hasn't worked until 26 September 2006, when the Government, under the leadership of Samdech Akka Moha Sena Padei Techo Hun Sen, the Prime Minister, provided an opening in an ever National Conference on "the establishment of the National Human Rights Institution of Cambodia" in Siem Reap province, with the participation from speakers of the working group for an Asian regional human rights mechanisms, namely, the

* The present document is being issued without formal editing.

Philippines, Indonesia, Malaysia and Thailand, to share their experiences. During the time, the Prime Minister conferred the task of drafting a law on national human rights institutions to the civil society organizations, led by Mr. Kem Sokha, to build a draft in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) on the establishment of a National Human Rights Institution. By the end of 2007, Mr. Kem Sokha had resigned from the working group and he formed the Human Rights Party instead, and handed over this task to Ms. Pong Chhiev Kek, the President of the non-governmental organization LICADHO, who successively became president of the working group.

3. A joint working group of the government working group led by the Senior Minister Om Yien Tieng, and the working group on civil society organizations led by Ms. Pong Chhiev Kek, had started the work to draw up an action plan on the process of preparing the draft law. After the fifth consecutive meeting (three times in Phnom Penh, one time in Koh Kong, and one last time in Preah Sihanouk) and following a study tour to the Philippines by the joint working group, a draft law on the establishment of the National Human Rights Institution was completed in Preah Sihanouk on 6 February 2010. Recently, in a meeting with Surya Subedi, the Prime Minister encouraged/pushed forward to have further discussion with civil society organizations and to review the draft making it better. Afterward, as a result, a national workshop was conducted on 19 January 2014 to collect ideas, opinions and comments from jurists, lawyers and other stakeholders to improve the draft and to bring it in line with the Paris Principles on the establishment of such an Institution. When the draft is finalized, it will be sent to the Office of the Council of Ministers for further action in order that the draft approved and being submitted to the national assembly for adoption.

4. Regarding the promotion of gender equality in the public sector, and leadership in particular, the Government had laid down a wide range of specific measures:

- In the Rectangular Strategy-Phase III (2014–2018), "Growth, Employment, Equity, and Efficiency", the Government has focused on the promotion of women's roles in the public sector through continuously increasing the proportional involvement of women in national institutions at all levels to motivate women to actively take part in decision-making processes, as well as in the formulation of development plans and good governance both at the national level and subnational levels.
- As mentioned in the National Strategic Development Plan 2014–2018 and the Neary Rattanak Strategic Plan IV 2014–2018, the Government has taken measures to empower women's participation and roles in decision-making in the public sector and political affairs, by:
    - Preparing the control framework and evaluating and carrying out gender audits on the representation and participation of women and men in the political sector and in decision-making;
    - Preparing and strengthening the policies, laws and programmes to enhance female representation in the political sector and their role in key decision-making;
    - Preparing and implementing a capacity-building programme to empower women in leadership positions and women with strong leadership potential; and supporting initiatives of other programmes, such as resources mobilization to promote women in the political sector and other structures;
    - Putting more investment in young women to ensure an equal participation in leadership in schools, universities, youth groups and organizational communities;

- Preparing affirmative actions for sectors with a wide gender gap;
- Establishing and supporting the gender focal person or Gender Working Groups for women in the National Assembly to enhance communication with other stakeholders and civil society organizations and encouraging all commissions of the National Assembly to consider gender when they make any decisions.

- Subdecree No. 22 of the Royal Government, on decentralization of power, functions and duties to commune/sangkat councils by determining that among the commune leaders there must be at least one woman.
- The Royal Government has determined that at least one woman has to take up a position of deputy governor of the governing boards of capital, provinces, cities, districts and khans nationwide.
- The recruitment of new civil servants at ministries or institutions must include at least 20 to 50 per cent women.
- The extension of the retirement age of female civil servants up to 60 is on a voluntary basis.
- The Government has determined the nomination of women as leaders in the units and levels at which they are entitled to decision-making in ministries and national institutions at national and subnational levels including the National Police Forces.
- Election Laws of the Capital Provincial Municipal District and Khan Council allows all political parties to register women in an appropriate sequential order of election candidate lists.
- In 2013, at least one member of the government cabinets was a woman, who becomes a secretary of state and under-secretary of state in each ministry and institution.

5. According to the Paris Peace Agreements, a constitution and criminal justice system have been formulated. It is recalled that, under article 15 of the Paris Peace Agreements, on the section of human rights, "All persons in Cambodia and all Cambodian refugees and displaced persons shall enjoy the rights and freedoms embodied in the Universal Declaration on Human Rights and other relevant international human rights instruments".

6. Article 31, Chapter III, of the Constitution states that "the Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human Rights, the covenants and conventions related to human rights, women's and children's rights. Every Khmer citizen shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations regardless of race, colour, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status. The exercise of personal rights and freedom by any individual shall not adversely affect the rights and freedom of others. The exercise of such rights and freedom shall be in accordance with the law.

7. In addition to the constitution which is the highest law, Cambodia also have laws and sublegislations serve as measures to explicitly determine in the internal law of Cambodia. Thus, the freedom of expression of citizens in the society is their liberty. However, any expression inciting to have rebel in the public, to provoking social unrest is a criminal offence punishable under the Criminal Code, chapter III concerning the incitement to commit a crime, article 496, incitement to discrimination. Every foreigner in the Kingdom of Cambodia shall abide by the Law on Immigration and other laws. The main purpose is to enable all people in Cambodian society as a whole to be aware of the laws,

comply with the laws, and widely disseminated to the public, and to punish any person who commit illegal acts, and we have been implementing these tasks on a regular basis.

8. Legal measures relevant to fight discrimination of all forms on the basis of ethnicity, race, religious belief, political opinion, trade union affiliation, family, gender, health, disability, are enshrined in the Criminal Code, article 265 to article 271:

- Sexual violence: In the Kingdom of Cambodia, violence a criminal offense. Sexual violence is also a criminal crime. Sexual violence refers to the commitment of sexual abuse, considered as violence of rape, which is punishable under articles 239 to 245 of the Criminal Code.
- Persecution of lesbian, bisexual, gay or transgender individuals: No legal provisions are applicable yet in the Kingdom of Cambodia to prohibit or to punish any such person. The Kingdom of Cambodia has not yet considered the possibility of recognizing same sex marriage.

9. Programmes raising awareness of the rights of persons with disabilities have been developed by the Disability Action Council, which is the secretariat of the Royal Government of Cambodia in this regard and carry out the activities as follows:

- Round-table discussions on a variety of topics surrounding persons with disabilities, in which government officials, presidents of non-governmental organizations, private company representatives and, in particular, persons with disabilities were invited to hold debates on the Convention on the Rights of Persons with Disabilities, the Law on the Protection and the Promotion of the Rights of Persons with Disabilities, the Royal Government policy, and legal standards in relation to the disability sector in Cambodia. The programmes had been televised and aired both in state-run TV and national radio in 2013 and 2014.
- The Disability Action Council published 6,500 copies of leaflets on the Rights of Persons with Disabilities for dissemination and distribution to ministries, national institutions and non-governmental organizations working on the disability sector in 2014.
- Consecutive programmes for discussion, on disability voice radio station and private radio stations.
- Workshop programmes disseminating the Convention on the Rights of Persons with Disabilities, the Law on the Protection and the Promotion of the Rights of Persons with Disabilities, the Royal Government policy, and legal standards concerning the disability sector, to which persons with disability are invited.
- Programmes disseminating the Law on the Protection and the Promotion of the Rights of Persons with Disabilities to those who completed the vocational training courses at the Centre of Vocational Training at the Ministry of Social Affairs, Veterans and Youth Rehabilitation. An evaluation of the impact of on these programmes has not been carried out yet.

10. With respect to violence against women, the Government has taken the following preventive measures:

- The implementation of the Law on the Prevention of Domestic Violence and the Protection of Victims:
    - The purpose of the Law on the Prevention of Domestic Violence and the Protection of Victims is to primary prevent violence and protect victims by virtue of safeguarding order issued by any concerned court of law or administrative decision made by local authorities to prohibit, and prevent

violence act against women. This law did not provide any term of punishment, but only preventive measures did. However, the punishment shall be applicable under the Criminal Code.

- Explanatory notes of this law have been drawn up and used.
- Trainings on this law have been provided on a regular basis to the commune/sangkat councils, police and military officers, court clerks, judges, prosecutors, the relevant Ministry — departments, and local authorities nationwide. Moreover, lessons about this law have also been developed and had included in the curricula of the Royal Academy of National Police and the Royal Academy for Judicial Professions.
- In September 2011, the Ministry of Women's Affairs and the Ministry of Justice released two Standard Forms used for issuance of both short-term and long-term safeguarding orders, and provided trainings to judges, prosecutors and staff of the Ministry of Women's Affairs who came from all provinces in Cambodia.
- This law has been broadly disseminated with a view to public awareness-raising by means of educational and promotional documents, video spots, drama, radios, televisions, campaigns and public forums, in the capital, provinces, cities, districts, *Khans*, and communities.
- The Law on the Prevention of Domestic Violence and the Protection of Victims has created a new actor; that's is the officials of the Ministry of Women's Affairs were entitled to judicial police officers to provide supports to victims of violence against women on behalf of the victim as a plaintiff to submit complaint in compliance with the applicable Code of Criminal Procedure.
- To ensure the legal and effective implementation of this new judicial police, in September 2007, the Ministry of Women's Affairs issued a Prakas No. 072 on the Roles of the women affairs officials qualified to a judicial police officer, and an additional Interministerial Prakas between the Ministry of Justice and the Ministry of Women's Affairs was also issued. According to the two Prakas, 124 women affairs officials were appointed qualified to judicial police at the provincial level and 22 women affairs officials being appointed qualified to judicial police at the capital level. They've all been trained about their role being judicial police and procedures.
- A comprehensive training programme for Judicial Police Agents was organized in cooperation with the Ministry of Women's Affairs and the Ministry of Justice, in which the basic knowledge, applicable laws on violence against women, consultation, networking, and support seeking skills were included. The Judicial Police agents of the Ministry of Women Affairs may join up with police officers to intervene in any case of violence occurred or anticipated with the aim of observing the police officials' practices and providing first aid and relief to victims.
- A monitoring study on "Violence against Women", conducted in 2009, revealed a considerable change in public perception compared to baseline data from 2005. The data indicates that: -the perception that domestic violence is as the routinely committed has gradually dwindled. The percentage of men thinking that smashing or destroying things is a normal act decreased by 30 per cent. Men's perception of physical abuse and use of chain as a normal act has decreased by 16 per cent, while the similar

perception of women in this regard has declined by 29 per cent. The use of knifes as means of problem-solving has dramatically declined. In summary, the violent behaviour has gradually decreased and the perception that violence is a misconduct has notably increased.

- The result of the Cambodian Demographic and Health Survey 2000–2005, revealed the rate of married women –between the ages of 15 and 49 — falling victim to violence committed by their own husbands (prevalent rate), has decreased from 15.2 per cent to roughly 12.8 per cent.
- A joint assessment carried out by government institutions and relevant civil society groups working on the National Action Plan on the Prevention of Violence against Women (2009–2012), demonstrated that Cambodian citizens have developed greater awareness of the Law on the Prevention of Domestic Violence and the Protection of Victims.

- Achievements from the first National Action Plan 2009–2012 on the Prevention of Violence against Women (as well as measures for setting up the Second National Action Plan):
  - The Ministry of Women Affairs has coordinated the development of the First National Action Plan on the Prevention of Violence against Women 2009–2012, aimed at encouraging the participation from all relevant institutions and promoting law enforcement with a view to prevention and curtailment of all forms of violence against women.
  - This national action plan has been jointly evaluated by both the Government, civil society institutions, finding strengths and weaknesses as well as accepting recommendations to close a gap in the drafting of the Second National Action Plan 2014–2018.
  - Thereupon, a working group in dealing with gender-based violence (under the supervision of the gender mainstreaming working group) was set up for the purpose of coordinating the formulation of the Second National Action Plan on the Prevention of Violence against Women (2014–2018). The working group is led by the Ministry of Women's Affairs comprising members from the relevant ministries and institutions, development partners and civil societies.
  - A series of broad counselling seminars at the national and subnational levels have been organized and attended by relevant ministries, departments, institutions and vulnerable women groups (for example, women with disabilities or women suffering from HIV) to collect opinions and comments that shall serve as the basis for establishing sound strategies and actions.
  - The draft of the National Action Plan on the Prevention of Violence against Women (2014–2018) was submitted to the Office of the Council of Ministers' technical working groups for discussion, and to the interministerial leadership for discussion, presided over by the Prime Minister, and subsequently adopted on 5 December 2014.
- Supporting services for victim women and children of domestic violence:
  - In 2011, the Ministry of Women's Affairs initiated a feasibility study on the establishment of a centre for one-stop service facility located in public hospitals where women and children suffering from domestic violence can receive services. To this end, the Ministry of Women's affairs has taken first step in cooperation with GIZ to promote a broad response at the subnational

level covering a wide range of services such as legal, health and social services, provided by the Government and civil society officials at the same time strengthening the referral system.

- The reparation project of the Extraordinary Chambers in the Courts of Cambodia:
  - Has been featured as "Mental and Collective" reparations. The project aims at providing formal acknowledgement of victims of the Khmer Rouge regime, to restore victims' dignity and preserve collective memory. The victims wishing to participate in the proceedings of the Extraordinary Chambers are entitled to file their application forms for being civil parties to the Victims Support Section of the Extraordinary Chambers that will send those application forms to the judge who decides case by case on the application. The civil parties of 779 people out of 4000 civil parties are the survivals of forced marriage crime and sexual abuse in the context of forced marriage.
  - The reparation of the Extraordinary Chambers is a response to the needs of a victims' point of view on justice in the process of consultation and justice when the decision is made on merit of the case. For victims, receiving justice is an important experience of reconciliation. It is of utter importance to, consult victims and respect their opinions in the process of both the discussion on developing the reparation project and the outcome of significant reparation they achieve at the end.
  - The civil parties, including the survivors from gender-based violence were invited to the court proceedings to listen to what was occurring in the trial and to pose questions to the defendants through their lawyers. They all receive legal and psychological assistance. The Victims Support Section and partnering non-governmental organizations frequently invite the civil parties to participate in forums and training courses. Through the process of establishing the reparation project, the civil parties are being authorized for consultation. Their proposals have been turned into projects for implementation. Most civil parties are expressing their satisfaction as they are authorized to participate in a process in which their voices are heard and in which they are entitled to express their opinions to the judges and senior officials of the Extraordinary Chambers, all of which are regarded as a crucial part of the reparations.
  - At the end of Case 002/01, 11 reparation projects were endorsed by the Trial Chamber. These projects have been implemented in Cambodia as a whole, benefits have been provided to all civil parties and general victims including to those who suffered from a crime of gender-based violence.

11. All criminal cases occurred in Cambodia have been thoroughly investigated by the General Commissariat of National Police and the Ministry of the Interior. However, concerning a statement claiming that at least 12 journalists were killed in Cambodia, the investigation concluded that the accusations did not hold true. All alleged criminal cases had been under investigation, and a large amount of the case files were sent to the court in accordance with legal proceedings. In fact, there were three cases of journalists' murders, and these were completely resolved, submitted to the court, and suspects were convicted under the law. For remaining cases, the competent authorities have pressed ahead with their investigations. The statements released that journalists, human rights defenders, union and environmental activists, politicians as well as important actors from civil society organizations have been subjected to persecution and violence, are obviously groundless.

The Ministry of the Interior has never, under any circumstance, ignored or politically excluded any citizen subjected to illegal abuse.

12. The three journalists killed were not the only casualty; many competent authorities were also seriously injured. Civilians succumbed to death and a large number of people got injured. The incident also resulted in huge damage to public and private property caused by activities of anarchists taking advantage of the violent atmosphere of the protest. These people worsened the circumstance by engaging in riot activities such as the usage of dangerous tools, iron rods, and the throwing of gasoline-filled bottles causing ignition and explosive gas cylinder directed towards the competent authorities who were maintaining security order at the scene. Those actions were considered to bring danger to society and institutions of the Kingdom of Cambodia. In addition, those activities resulted in chaos and caused civilian casualties as reported. As a result of these incidents, the Royal Government, the Ministry of the Interior and the General Commissariat of National Police, established committees at the national and expert levels to conduct thorough investigations to arrest perpetrators committing those illegal acts and bring them to court to be convicted in accordance with the law. Those case files include causes of civilian casualties, injuries and property damage and have been under subsequent investigations; some cases have been submitted to the court.

13. The Cambodian Law on Prisons stipulates in article 54 that "the national preventive mechanism is authorized to undertake any visit to prison at any time and make confidential interview with prisoners in order to check the detention conditions and the maltreatment of prisoners and provide recommendation to improve the prevention of torture, cruel, inhuman or degrading treatment."

14. Most of Cambodia's prisons are old as they have been built during the French colonial era. Although they do not comply with international standards, the Ministry of the Interior has cooperated with development partners, the Office of the United Nations High Commissioner for Human Rights in Cambodia, the Cambodia Community Justice Assistance Partnership, and the International Committee of the Red Cross (ICRC) in order to study and develop new standards for renovating and reconstructing the infrastructure of prisons. Since 2010, the prison buildings across the country have been renovated in accordance with the Law on prisons. At present, the number of prisoners calculated as of 25 December 2014 across the country was 15,168 prisoners (1,212 females) including 15 pregnant women, mothers with children (42 children — 16 females), 755 foreigners (194 females) and 397 minor prisoners (22 females).

15. With the aim of promoting the mental health of prisoners, the Ministry of the Interior with the assistance of ICRC, the Cambodia Community Justice Assistance Partnership and the Office of High Commissioner for Human Rights in Cambodia started in 2010 a joint efforts to build safety fences that allow prisoners to go outside of the detention building and do more exercises for long hours. Nowadays, each prisoner is allowed to spend time outside of the cell to get fresh air and do exercises for at least 30 minutes per day, not including the time of active participation.

- Ministry of the Interior has also cooperated with a number of development partners to provide mental health services such as TPO which provided mental health counselling and life skills to all prisoners. The Ministry also cooperated with SIPAR to build prison libraries across the country for prisoners to read and borrow book for reading.
- Strategic plans of the Ministry of the Interior reviewed prisoners who self-corrected attitude; in order to allow them to join in the activities related to agricultural programme, prison handicrafts and give them vocational skills for their livelihoods upon release and also integrate back into the society.

16. The Municipality of Phnom Penh City has rounded up sex workers, beggars, street children, drug users, disable people and others with the purpose:

- To beautify the city to attract the visits of the national and international tourists relaxing in Phnom Penh city and to maintain the public order which is a part of economic development through promoting tourism sector.
- Those street vagabonds are also human resources for working in the agricultural sector, who need to be encouraged and urged to return back to their homes in the provinces and rural areas in order for them to run the farms and plantation.
- The round-up (Collection) of children to live in the social affairs Centre is the attention of the Royal Government of Cambodia to provide training in order to utilize the acquired knowledge and skills to run appropriate business based on the skill acquired from here.
- The round-up of street children is a preventive measure for them from becoming drug users and traffickers, and the infection of HIV/AIDs. And those children are organised systematically to work as beggars everywhere. The Phnom Penh competent authorities closely follow up to search for its mastermind as it caused disorder in Phnom Penh.
- The allegation of torture, arbitrary detention, ill-treatment and other abuses committed by the law enforcement officials as well as by personnel of the Social Affairs Centres and Drug Rehabilitation Centres were untrue and groundless.

17. In this respect, the Royal Government, the Ministry of the Interior, and the General Commissariat of National Police have taken as a prioritized measure among the other obvious measures, the Royal Government has established a National Committee Combating human trafficking, in which the Deputy Prime Minister and the Minister of the Interior are assigned as presidents, and also established a Secretariat General of the National Committee Combating against human trafficking, and also included the concerned Ministries and institutions as well as a number of Civil Society Organizations, and Specialised Units of the General Commissariat of National Police acted as a direct operational competent authority. In this regard, from year to year, the expert competent authorities and concerned institutions have strived for the preventive actions and suppressed this offence which in result the suspects were brought before the court for prosecution. Particularly, many victims were rescued and transferred to the last safety targets.

18. The Royal Government always politically, financially and administratively supports the Extraordinary Chambers in the Courts of Cambodia since the negotiation stage up to the present. The Government has coordinated and provided physical infrastructure at the court premises (Such as office buildings and courtroom), staff and public transportations and pays for the utilities costs such as electricity and water bills; and has also provided medical services for the five accused persons. Most importantly, the Government has cooperated concerning the security-related matters and provided witness protection based upon the requests from the Extraordinary Chambers. National staff members who are working in legal areas and Judges who are working with international colleagues have gained extensive knowledge, experience and skills that can be utilized for improving the national judicial system when they return to work for the Cambodian Government and national judicial institutions. Currently, some of the legal officers and judges of the Extraordinary Chambers who gained good experience from the Extraordinary Chambers have already returned to their previous careers. The Office of the Co-Investigating Judges independently investigated and continues its investigation into case files 003/004 without any interference.

19. Currently, the victims in the cases submitted and have continued to submit their applications to participate in the proceeding as civil parties and usually they file their

applications through the Victims Support Section as well as through intermediary organizations. The Extraordinary Chambers have created many built-in judicial mechanisms in the Agreement and Law on the Establishment of the Extraordinary Chambers to ensure that work carried out by judges and other judicial officials is independent and impartial. Particularly, the Internal Rules of the Extraordinary Chambers also contain built-in mechanisms, for example, Rules 71 and 72 relating to the Settlement of Disagreement between the Co-Prosecutors and Co-Investigating Judges by the Pretrial Chamber of the Extraordinary Chambers. Judges at the Extraordinary Chambers work independently and impartially, without receiving instructions from the concerned parties including the media and non-governmental organizations.

20. All implementations and affirmations of the Government and the United Nations, who are the founders of the Extraordinary Chambers, are strictly adhered to the principle of independence and impartiality of the judiciary and in support for sovereignty, national reconciliation and political stability in Cambodia. In response to allegations and scepticism, the Secretary-General issued a public announcement denying "media speculation" that judges had received instructions to dismiss Case 003 before the Extraordinary Chambers. Meanwhile, on Friday, 22 July 2011, the Prime Minister of Cambodia reacted to the statements raised by the observer groups that the head of the Government had interfered in the internal affairs of the Extraordinary Chambers and prevented the further trials of Cases 003 and 004 at the Extraordinary Chambers. The Prime Minister argued that those who spoke about the "interference" were actually the interferers (in the Extraordinary Chambers).

21. In the Kingdom of Cambodia, everybody, even when they are in the detention cells, still enjoy the right to legal protection via two principles:

- Right to self-defence;
- Right to legal assistance by his own choice or by the appointment of the court.

22. Currently, in the Kingdom of Cambodia, there are not enough lawyers, particularly, in remote provinces, and the right to legal assistance of the accused is not guaranteed. To solve the problem, the Bar Association of the Kingdom of Cambodia trained and has trained lawyer trainees consequently.

23. To ensure the independence and the impartiality of judicial institutions, the Royal Government of Cambodia has taken legal actions and operational measures such as:

- Legal measures: starting from the principle of independence and impartiality of judicial institutions as enshrined in the Constitution, the Royal Government in the 5th legislative mandate of the National Assembly has outlined a specific official plan to push for the approval of three fundamental Laws which are related to the judicial sector; that define about the measures and provisions to guarantee the independence and the impartiality of judiciary.
- Operational measures: the three fundamental Laws are related to the judicial sector were reviewed and revised by the Ministry of Justice, and submitted and approved by the National Assembly and promulgated in July 2014, including the Law on the Organization of the Courts; the Law on the Organization and Functioning of the Supreme Council of Magistracy; and the Law on the Status of Judges and Prosecutors.

24. Dealing with the matter of the lack of human and financial resources in the courts:

- About financial resources: under the Law on the Organization of the Courts, from 2015 onwards, the judicial and the prosecution institutions shall prepare their budget plans based on the action plans by themselves. The Ministry of Justice has a role to

coordinate these budget plans with the financial institutions. After the budget plans are approved, the president of the court of first instance is a delegated manager who has full rights to independently manage and use the approved budgets; the chief of the court of first instance is a delegated manager has enough right to manage the use of the budget independently.

- About human resources:
    - The Royal Academy on Judicial Professions has recruited and trained judges, prosecutors, court clerks and bailiffs, in order to fulfil the needs of the courts.
    - The Ministry of Justice has organized the establishment of the administrative unit within the courts, and recruited administrative officials to work on the justice service provision in the courts in a better manner.

25. The use of forced confessions under the regulated legal provisions:

- 1. Article 38(5) of the Constitution: a confession obtained under circumstances of coercion though physically or mentally shall not be deemed as evidence of guilt. The confessions under duress, therefore, shall not be used in the court procedures.
- 2. Article 118 of the Code of Criminal Procedure states that under a principle, written records can be valued as information but records of the judicial police officers should be treated as "original documents", meaning that it shall be treated as a document that have to believe on, unless contradictory evidences are proven.

26. In the event that an allegation of coercion or torture is made purely by oral statement, i.e., without evidence to prove that such confessions were obtained under coercion or by torture, a judge cannot rule out such statements, i.e, the judge still uses such confessions until evidence is determined in a court proceeding.

27. Obviously, the lawyer and the accused had, in the past, always orally argued that confessions of the accused was obtained by coercion or torture by the police, just only to exculpate the accused from prosecution but such a case cannot convince the court.

28. Freedom of expression in the Kingdom of Cambodia is guaranteed by the Constitution of the Kingdom of Cambodia, as article 41 defines that citizens have their freedom of expression, freedom of the press, freedom of publication, and freedom of assembly. No one shall be allowed to abuse this right leading to discredit the honours of others, good customs of the society, public order and national security. The press regime shall be established by the Law.

29. Pursuant to the Constitution of the Kingdom of Cambodia, everybody shall enjoy the freedoms of expression. The Kingdom of Cambodia is a rule of Law country, however, everything shall be conducted in compliance with the Laws; so freedom of expression should also be respected as defined by the Laws, as article 41-1-2 states that "No one shall be allowed to abusively use this right (right to expression of opinion) leading to discredit the honours of others, good customs of the society, public order and national security". The Kingdom of Cambodia, therefore, guarantees the freedoms of expression of everyone under a defined framework, as mentioned in the above Constitution, and the exercise of rights and freedoms are specifically defined in article 1-2-2 of the Constitution that "the exercise of personal rights and freedoms shall be complied with conditions of the legal frameworks."

30. The inclusion of defamation, disinformation and incitement into the Criminal Code is a legal measure to prevent anarchy in broadcasting/publishing and speech, as well as expressing opinion; this setting is also similar to the law of many Rule of Law countries, such as France. The aim of this inclusion is to protect the rights and honours of individuals.

31. Please note that the Royal Government as well as the Ministry of the Interior respects the international principles as foundation of respecting human rights and democracy, in accordance with the Constitution of the Kingdom of Cambodia. The previous cases which led to the issuance of legal prohibition and restriction on some assemblies, the Ministry of the Interior merely implemented any activities that are not authorized by Laws, inconsistent with the Constitution; and in cases involving with the investigation into the past serious cases of violence, were only aimed to maintain security and safety for general populations.

32. The Ministry of the Interior would like to clarify that the delay in processing the Law on non-governmental organizations was to wait until the reports of associations done clarifying about their implemented activities in the past.

- For the drafted Law on associations and non-governmental organizations, a meeting was already conducted to between the Ministry of the Interior and the Ministry of Foreign Affairs and International Cooperation to revised it, and then the consultative workshop was held with participation of the representatives of associations, and non-governmental organizations and international non-governmental organizations; and representatives of Embassies and the representatives of the Ministries and concerned institutions in which a total number of 153 participants, suggested and recommended that the drafted Law; should be reduced to only 9 chapters and 34 articles. Currently, it is ready to submit to the Council of Ministers for examination and approval.

- In case of the Free Trade Union failing to be registered in February 2014, the Department of Labour Disputes of the Ministry of Labour and Vocational Training never refused to accept the proposed registration of the Free Trade Union of the Kingdom of Cambodia. All documents related to the establishment and registration of a trade union which submitted to the Department of Labour Disputes, are subjected to prior verification undertaken by the specialized officials; if they found out that documents are insufficient as required by Laws and misspellings, then the trade union would be required to revise it again, once all requirements are fulfilled and revised, officials will usually accept the documents and register. Overall, the Ministry of Labour and Vocational Training still implement the registration under the same legal principle, without discriminating any trade Union.

- In respect of the drafted Law on Trade Unions, after receiving recommendations from the Prime Minister of the Kingdom of Cambodia, the preliminary of the draft Law on Trade Union was led and developed by the Ministry of Labour and Vocational Training in cooperation with the International Labour Organization (ILO). The preliminary draft is opened for consultation in order to collect inputs from the concerned Ministries and institutions that are members of the Working Group in charge of Vocational Relationship (Working Group 8) and the internal mechanism group of the Ministry of Labour and Vocational Training. All relevant Ministries and Institutions that had taken part in the discussion included the Ministry of Justice, the Ministry of Social Affairs, Veterans and Rehabilitation, the Council of Economy, Social Affairs and Culture, the Council of Jurists, Adviser of Deputy Prime Minister, Tea Banh, representatives of private sectors, Cambodian Labour Union Federation, Cambodian Union Federation, Cambodian Industrial Union Federation and Cambodian Garment Democratic Union Federation.

- In its active process to develop a draft Law on Trade Unions, the Internal Mechanism Group of the Ministry of Labour and Vocational Training cooperated with the representative of the International Labour Organization to overcome challenges from November 2008 until March 2011, had completed the draft Law on Union, that comprises 17 chapters and 91 articles based on the convention and

recommendations of ILO that are relevant to specialized practical experiences of the current and future situation in Cambodia, for instance, Cambodian existing Law on labour, norms/regulation of the Ministry used to be core and foundation for relevant dispute resolution and that union is revised and submitted for subsequent consultations.

33. Article 950-1 of the Cambodian Civil Code states that a woman is not allowed to re-marry if the duration of 120 days have not yet passed from the date of the previous marriage nullified or abolished. This provision aims to protect the paternity of an infant that may have during the previous marriage was dissolved or nullified as stated in article 950-2 of this Code "the provision of the above first paragraph shall not be taken into practice in case of a woman was already pregnant before previous marriage was dissolved or nullified and a baby was delivered or in case that there is a certificate issued by doctor to prove she is not pregnant.

34. In the past, Kingdom of Cambodia has not yet established a separate juvenile justice system, but it operates under the general justice system. However, Criminal Code and Criminal Procedure Code have defined particular principles and conditions under the general justice system. However, the Criminal Code and Criminal Procedure Code have regulated particular principles and conditions for dealing with any minor who committed an offence either during trial proceeding or prosecution stage and measures to be applied.

35. Thus, the proposed measures for establishing the juvenile justice system are as follows:

- Strengthening the implementation of principles and conditions that are regulated by Law, by conducting trainings for Law enforcement officials including those are who are concerned such as judges, prosecutors, and social service providers.
- The Law on Juvenile Justice has been drafted that set out particular principles, namely, the conversion procedure for a juvenile who committed the crime segregating from judicial system and the arrangement to establish a specialized court, judges, and prosecutors, as well as rehabilitation centre for only the minors.

36. Cambodia has precise policies and legal frameworks as well as mechanisms in combating child labour. Based on the result of the investigations on child labour in 2013, it showed that child labour reduced from 755,245 children in 2011 to 429,380 children in 2013. This development showed that the association of employers agreed to sign on agreement of anti-child labour with a Project of Better Factory of International Labour Organization on 18 December 2014. A project on reduction of Child Labour of WorldVision which cooperated with the Ministry of Labour and Vocational Training took 20,621 children out and helped their families in total of 3,600 families. The Royal Government of Cambodia still keeps its stance strongly in order to punish on the violation of child labour through implementation of the Labour Law, Criminal Code and the Law on the Suppression of Human Trafficking and sexual exploitation and other relevant laws of Cambodia.

37. Previously, the Ministry of the Interior had disseminated in connection with the birth registration through various ways such as national radio and TV (Spot or short story) and invited chief of commune/sangkat and clerk, Women and Child Committee across Cambodia to attend the training as well as dissemination sessions. Moreover, at the municipal and provincial levels, there is a municipal/provincial woman and child consultative committee; at the city, district and khan levels, there is a city/khan/district woman and child consultative committee; and at the commune and sangkat levels, there is a commune/sangkat woman and child consultative committee. They are all interconnected and perpetual and mutual supports. Practically, the Ministry of the Interior, up to December 2014 registered the birth certificates of a total 106,445 people in 2014, 52,177 of them are

women, and certified birth registration up to 175,639 people with 84,252 of them are women.

38. In connection with the matter of election reform, dated 22 July 2014, Cambodian's People Party and Cambodia National Rescue Party agreed to amend article 76 of constitution and additionally created a new chapter 15 and continued to discuss further and to finish the draft Law on the functioning of the National Election Committee, and to further continue the amendment on Election Law for Electing Members of National Assembly in order to advance the process with transparency and justice. Now the Working Groups of the two parties discussed and have continued to discuss the Election Law in order to revise for improvement for the upcoming 6th national election in 2018.

39. According to Cambodian constitution, Law on Nationality, Law on Immigration, and Cambodian history:

- In chapter 3, article 33 of the Constitution of the Kingdom of Cambodia stated that Cambodian citizens shall not be deprived of their nationality, or exiled, or arrested and deported to any foreign country, unless there is a mutual agreement. Khmer citizens residing abroad shall be protected by the State. The acquisition of Khmer nationality shall be determined by Law.
- Chapter 1, article 3 of Law on nationality stated that Khmer citizens who are living in foreign countries shall 1) be protected by State through all diplomatic means; 2) not lose their nationality automatically.
- In article 3 of chapter 1 of Law on immigration of Cambodia stated that: This Law shall be applicable for all aliens, regardless of whether they have settled in their residences before this Law is passed, except in cases involving international Laws to which the Kingdom of Cambodia is a signatory.

40. All above legal documents are foundations to ensure the social sustainability in administering Khmer citizens and foreigners who have different languages, religions, and other things are able to live together under one roof of Law, but history and present time are divided specifically by Law of each country. Therefore, the international border crossing is to have a passport or equivalent document. While crossing the border without document is an illegal act, but due to historical and geographical reasons, crossing borders are favourable for Khmer Krom who currently can travel into Cambodia through corridor border which is considered as informal border. For this reason, Cambodian local authorities are unable to provide them any identification document because they live in a separate roof of the Laws of that country already since 1949. While some other Khmer Krom who had lived in Cambodia for a long time, they have identical documents for use until now and some of them are working in the Government. Please note that the Khmer citizens who hold the passport of the country they are living in are offered a special visa and tax accommodation tax exemptions without time limit and can travel in and out to Cambodia many times.

41. For foreigners, especially Vietnamese people, some of them have really settled in Cambodia since the French protectorate and later periods and built up their families from one generation to another generation, but the Law on immigration of Cambodia 1994 as states in article 3 as mentioned above does not exempt cases such as these. Therefore, all foreigners who are residing in Cambodia shall be considered as immigrants, and require to register and fill additional legal documents including the requirement to pay tax for a permanent resident card, to enable them residing permanently and legally in Cambodia. Any foreigner who breaches the Law on Immigration and Labour Law of Cambodia shall be fined and expelled from Cambodia.

42. The indigenous peoples living in Cambodia obtained more right to land and property than general Cambodian citizens. They can create their association to access to the

collective ownership and they can have private ownership as general Cambodian citizens too. The policies and subdecrees related to land registration of indigenous community in Cambodia are in place for implementation, namely, provisions and rules such as interministerial circular on provisional protection measure on land of indigenous community requested for the registration.

43. In the process of land registration, the community participation is very important and compulsory and without their and other concerned actor participation, it would not move ahead. In the dissemination stage related to the land registration, more possibilities and opportunities were provided to the concerned parties and communities themselves in order to verify and complaint as well as make their own decision. Therefore, the processes of land registration were conducted with full transparency and participation.

44. As of late 2014, the land registration of indigenous community was conducted for 18 communities — 8 of them already completed the registered and other 10 communities are still ongoing.